

Appl. No. 10/728,046
Amtd. dated Dec. 16, 2004
Reply to Office Action of Sept. 22, 2004

REMARKS

Claims 1-31 are pending. Claims 17, 20-24, 28, and 31 have been rejected under 35 U.S.C. §102. Claims 1-13, 16, 18, 19, and 27 have been rejected under 35 U.S.C. §103. Claims 1-16 have been objected to because of matters of claim formality. Claims 14, 15, 25, 26, 29, and 30 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Claim 1 and claim 29 have been amended to correct the matters relating to claim formality. Claims 1-31 remain for consideration upon entry of the present Amendment. No new matter has been added.

The Examiner has objected to claims 1-16 because there is no period at the end of claim 1. Claim 1 has been amended to address the Examiner's objection. Accordingly, Applicants respectfully request that the objection to claims 1-16 based on this matter of formality be withdrawn.

The Examiner has also objected to claims 14, 15, 25, 26, 29, and 30 as being dependent upon a rejected base claim, but has indicated that these claims would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim 1, from which claims 14 and 15 depend, is asserted to be patentable for the reasons presented below. Accordingly, neither claim 14 nor claim 15 has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim 17, from which claims 25 and 26 depend, is also asserted to be patentable for the reasons presented below. Accordingly, neither claim 25 nor claim 26 has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

Claim 28, from which claims 29 and 30 depend, is further asserted to be patentable for the reasons presented below. Accordingly, neither claim 29 nor claim 30 has been rewritten in independent form to include all of the limitations of the base claim and any intervening claims.

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Claims 17, 20-24, 28, and 31 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,760,642 to Kwak (hereinafter "Kwak"). The rejection is traversed and reconsideration is respectfully requested.

Claim 17 of the present application recites a shaving apparatus comprising a handle having an interior cavity and an actuator, a replacement cartridge including a flexible bladder operable to store a flowable shaving aid material, and a housing having an exterior surface including one or more ports, the one or more ports being in fluid communication with the contents of the flexible bladder. The replacement cartridge is selectively mounted to the handle such that the flexible bladder is at least partially inserted into the interior cavity of the handle. The actuator is operable to collapse the bladder, and thereby force shaving aid material from the bladder to the one or more ports.

Claim 28 of the present application recites a replacement cartridge for a shaving apparatus comprising a flexible bladder operable to store a flowable shaving aid material and a housing having an exterior surface. The exterior surface includes one or more ports, the one or more ports being in fluid communication with the bladder.

Kwak is directed to a combination razor/toothbrush device that contains therein dispensers for both shaving cream and toothpaste. The device comprises a main body member, a T-shaped razor member disposed at one end of the main body member, and a T-shaped toothbrush member disposed at the other end of the main body member. The main body member has a first chamber for housing a shaving cream dispenser containing shaving cream and a second chamber for housing a toothpaste dispenser containing toothpaste. The respective dispensers are made of flexible materials. The dispensers are secured to the main body member by stop members secured at the forward ends of each dispenser and by hook members that engage raised portions disposed on the insides of the respective chambers. Upon dispensing the shaving cream from its dispensers, the shaving cream is passed through small holes and is distributed to small apertures defined by surfaces made of cotton disposed at the front side of the razor head.

Kwak fails to disclose, teach, or suggest a replacement cartridge that includes a flexible bladder, as recited in claim 17 and claim 28. The dispensers of the Kwak invention are not replacement cartridges, as evidenced by the securement of the dispensers to the main body. In particular, the stop members used to secure the forward ends of each dispenser

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preclude the removal of the dispensers from the main body for refilling. Accordingly, because the removal of the dispensers from the main body is precluded, the dispensers are not replacable, and thus the dispensers are not replacement cartridges.

To anticipate a claim under 35 U.S.C. §102, a single reference must disclose each and every element of the claimed invention. *Lewmar Marine v. Barient Inc.*, 3 USPQ2d 1766 (Fed. Cir. 1987). Absence from the reference of any claimed element negates anticipation. *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565 (Fed. Cir. 1986). Because Kwak fails to disclose, teach, or suggest a replacement cartridge that includes a flexible bladder, as recited in claim 17 and claim 28, neither claim 17 nor claim 28 is anticipated by the Kwak reference. For at least this reason, both claim 17 and claim 28 are allowable. Applicants therefore respectfully request that the rejections of both claim 17 and claim 28 be withdrawn.

Dependent claims, by definition, further define the subject matter of the independent claims from which they depend. Because claims 20-24 depend from claim 17, claims 20-24 add recitations that further define the subject matter of independent claim 17. Because claim 17 is believed to be allowable for at least the reasons presented above, claims 20-24 are therefore also believed to be allowable. Consequently, Applicants respectfully request that the rejections of claims 20-24 be withdrawn. Furthermore, because claim 31 depends from claim 28, claim 31 adds recitations that further define the subject matter of independent claim 28. Because claim 28 is believed to be allowable for at least the reasons presented above, claim 31 is therefore also believed to be allowable. Consequently, Applicants respectfully request that the rejection of claim 31 be withdrawn.

Claims 1-13, 16, 18, 19, and 27 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kwak in view of U.S. Patent No. 4,635,361 to DeMars (hereinafter "DeMars"). The Examiner alleges that Kwak shows the claimed shaver having a handle with a cavity and an upper housing with outlets near the blade. The Examiner also states that Kwak may not show a cartridge, but that cartridges are allegedly notoriously old in the art and one is shown by DeMars. The Examiner then alleges that it is obvious to one of ordinary skill in the art to provide such a cartridge with the device of Kwak to increase the shaving effectiveness and convenience of operation.

With respect to claims 1-13 and 16, Applicants point out that claim 1 of the present application recites a shaving apparatus comprising a razor cartridge having one or more razor

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blades; a handle having an interior cavity; a flexible bladder operable to store shaving aid material, the flexible bladder being disposed within the interior cavity of the handle; a housing having an exterior surface, the exterior surface including one or more ports disposed adjacent the razor cartridge, the one or more ports being in fluid communication with the bladder; and an actuator operable to decrease the volume of the bladder, thereby forcing the shaving aid material from the flexible bladder to the one or more ports.

The teachings of Kwak are presented above.

As noted by the Examiner, Kwak fails to disclose, teach, or suggest a razor cartridge, as recited in claim 1.

DeMars is directed to a disposable shaving implement comprising a rigid handle and a first portion which carries a shaving head thereon. The first portion is angled to permit the implement to be used as a manually operated razor. The handle is provided with a chamber that extends the length of the handle and which is adapted to receive a tube of shaving lotion. One end of the tube of shaving lotion includes a dispensing neck which in turn includes an opening out of which the shaving lotion is dispensed. The handle also includes a channel, which communicates with the chamber and includes a tube squeezing means that is slidably mounted in the channel.

DeMars fails to disclose, teach, or suggest a housing having an exterior surface, the exterior surface including one or more ports disposed *adjacent* the razor cartridge, as recited in claim 1. The opening of the tube in the DeMars invention, in all embodiments disclosed in DeMars, is remote from the razor cartridge. As shown in Figures 1-3 of DeMars, the opening is at the end of the handle opposite from the razor cartridge. As shown in Figures 4-6 of DeMars, the opening is at the same end of the handle that the shaving head extends from, but the shaving head (and the razor cartridge) extends away from and is remote from the opening. Thus, in any embodiment of DeMars, because the shaving head and razor cartridge are remote from the opening, the opening is not adjacent the razor cartridge, as is recited in claim 1.

Because Kwak does not disclose, teach, or suggest a razor cartridge, and because DeMars fails to disclose, teach, or suggest a housing having an exterior surface that includes ports disposed adjacent a razor cartridge, the combination of Kwak and DeMars necessarily fails to disclose the shaving apparatus as recited in claim 1.

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To establish a prima facie case of obviousness for a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Because neither Kwak nor DeMars individually or in combination disclose, teach, or suggest what Applicants recite in claim 1, viz., a shaving apparatus having a razor cartridge where one or more ports are disposed adjacent the razor cartridge, neither Kwak nor DeMars, alone or in combination, teach all of the claim recitations of Applicants' invention. Consequently, because not all of the claim recitations are taught by the cited reference, Applicants' claim 1 is necessarily non-obvious. Applicants therefore respectfully request that the rejection of claim 1 be withdrawn.

Claims that depend from a claim that is non-obvious are themselves necessarily non-obvious. Because claims 2-13 and 16 depend from claim 1, and because claim 1 is asserted to be non-obvious for the reasons presented above, claims 2-13 and 16 are necessarily also non-obvious. Applicants, therefore, respectfully submit that claims 2-13 and 16 are allowable. Accordingly, Applicants therefore respectfully request that the rejections of claims 2-13 and 16 be withdrawn.

With respect to claims 18, 19, and 27, Applicants point out that the teachings of claim 17, from which claims 18, 19, and 27 depend, are presented above.

The teachings of Kwak and DeMars are also presented above.

There is no teaching, suggestion, or motivation to combine Kwak with DeMars to arrive at the present invention recited in claim 1. As stated above, Kwak discloses a device having small holes through which shaving cream is distributed to small apertures of cotton surfaces disposed at the front side of a razor head. Also as stated above, DeMars discloses a shaving implement having an angled handle and a chamber extending through the handle in which is received a tube of shaving lotion. DeMars is not properly combinable with Kwak because DeMars explicitly states that one of the drawbacks of shaving implements in which a lather-forming material is incorporated is that only enough material is stored for one shave. Given that the dispensers of the Kwak invention are not replacement cartridges, that a replacement cartridge cannot be inserted into the handle of the Kwak device, and that, therefore, the Kwak device is a single-use device, one of ordinary skill in the art would not look to combining DeMars with Kwak to arrive at the present invention.

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For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Because neither Kwak nor DeMars show some teaching, suggestion, or motivation that would lead an individual of ordinary skill in the art to combine Kwak and DeMars to arrive at the present invention recited in claim 17, the combination thereof fails to define the present invention for the reasons presented above. Accordingly, Applicants respectfully assert that claim 17 is allowable and respectfully request that the rejection thereof be withdrawn.

Furthermore, because claims 18, 19, and 27 depend from claim 17, and because claim 17 is asserted to be non-obvious for the reasons presented above, claims 18, 19, and 27 are necessarily also non-obvious. Applicants, therefore, respectfully submit that claims 18, 19, and 27 are allowable. Accordingly, Applicants respectfully request that the rejections of claims 18, 19, and 27 be withdrawn.

Applicants believe that the foregoing amendments and remarks are fully responsive and that the claims herein are allowable. In view of the foregoing points that distinguish Applicants' invention from those of the prior art and render Applicants' invention novel and non-obvious, Applicants respectfully request that the Examiner reconsider the present application, remove the rejections, and allow the application to issue.

If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is invited to telephone the undersigned.

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Applicants believe that no fees are due with the submission of this Amendment. A deposit account has been applied for in the name of MICHAUD-DUFFY GROUP LLP, and it is anticipated that this deposit account will be activated shortly. Thus, if any charges are incurred with respect to this Amendment, Applicants' attorneys would be most appreciative if the Examiner could cross-reference the applied-for deposit account and apply those charges thereto.

Respectfully submitted,

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